

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CONGREGATION RABBINICAL COLLEGE OF
TARTIKOV, INC., *et al.*,

Plaintiffs,
-against- **07 Civ. 6304 (KMK) (GAY)**

VILLAGE OF POMONA, NY; *et al.*,

Defendants.

DECLARATION OF SUSANNAH C. DRAKE

Susannah C. Drake declares as follows, pursuant to 28 U.S.C. § 1746

1. I am a licensed architect. New York State Architecture - License #033227 - issued April 29, 2009 Exp. 10/31/17, New York State Landscape Architecture - License #001956 - issued March 2, 2005 Exp. 10/31/16, New Jersey Landscape Architecture - License #21AS00110200- issued March 3, 2011 Exp. 5/31/16. My qualifications are set forth with particularity in my curriculum vitae attached hereto as Exhibit: EXHIBIT A.
2. I make this declaration in support of my opinions that the Rabbinical College can be constructed in the Village of Pomona as a fairly simple design; that it could introduce new dormitory and campus buildings into a community and retain the current community

character; and that the Village's justifications for the challenged laws are irrational and unreasonable from an architectural perspective, all as set forth in more detail below.

3. I am the founding principal of interdisciplinary design firm DLANDSTUDIO PLLC Architecture and Landscape Architecture. I was the Cejas Scholar at Florida International University in 2014 and taught at Harvard, Syracuse, Washington University in Saint Louis, City College of NY and the Cooper Union. I received a Bachelor's of Arts from Dartmouth College and Master in Architecture and Master in Landscape Architecture from the Harvard University GSD. I am a registered architect and registered landscape architect.
4. Dlandstudio is an interdisciplinary design firm founded in 2005 by me. Prior to starting an independent practice, I worked as an architect and landscape architect in New York, Cape Cod, New Hampshire, Wyoming, and San Francisco. Dlandstudio provides an integrated approach to planning, programming, and design. As leader and collaborator on large consultant teams that include architects, artists, landscape architects, planners, and engineers, dlandstudio enriches team consideration of landscape meaning while maintaining focus on project goals throughout the development process. The firm is committed to creating projects with a strong conceptual foundation drawn from an understanding of the people, the place, the client, the program, and smart construction techniques.
5. I am the former President and Trustee of the New York ASLA, Former Trustee of the Van Alen Institute and visiting studio professor at the Cooper Union and Harvard University. I was the Cejas Scholar at Florida International University in the spring of 2014. I am currently a visiting professor of Urban Design at the Sam Fox School of Design & Visual Arts at Washington University in Saint Louis.

6. My teaching, publication and lecture experience is outline in the attached c.v. See **Exhibit A.**
7. In the course of my employment, I have researched campus landscapes such as Middlebury College, Dartmouth College and Wesleyan and Duke Universities, and have had past experience visiting college campuses in nineteen states for master planning, lectures and reviews. In addition, I directed master planning projects at Dartmouth College, and the University of Georgia. Current projects include master planning for the Fieldston/Ethical Culture School in the Bronx, NY as well as for the ICA at the University of Pennsylvania.
8. The use of the term ‘Rabbinical College’ herein refers to that land use proposed to be developed by the Plaintiff Congregation Rabbinical College of Tartikov, Inc., on its property within the Village of Pomona, but which is prohibited by the Village’s land use regulations for the various reasons described below. While no specific site plan or special permit application has been filed for such use (as it is prohibited), any such use will have certain characteristics, namely that it will be an unaccredited educational institution, and that it will seek to provide family housing with housekeeping facilities for its student body.
9. Materials that I reviewed in order to form the opinions expressed herein include: aerial photos of the site from Google earth, Google street view and USGS maps of the site from the internet, and court filings including “Second Amended Complaint” and “Defendants’ Amended Responses to Certain of Plaintiffs Second Set of Interrogatories.” I also reviewed “A Local Law Amending the Code of the Village of Pomona in Relation to Wetland Protection”, “Village of Pomona, Local Law 1 of 2007 Amending The Zoning Law of the Village of Pomona in Relation to Dormitory Buildings”, and “Village of

Pomona Local Law 5 of 2004”, “A Local Law Amending the Zoning Law of the Village of Pomona in Relation to the Schools.”

10. In addition, I visited the site in January to get a sense of the surrounding area in the Village. It was a cold afternoon in January and there was some snow cover on the ground. There were no leaves on the trees.
11. On the visit, I considered the aesthetic qualities of the site and surroundings including views in to the site from the road, views out from the top of the hill, density of the tree cover, density of understory vegetation, maturity of trees, open water, form of the topography, neighborhood character and building typologies, materials used in construction in the area, general building heights and roof lines, types of driveways, relationship of cars to properties, location, size and configuration of garages and other outbuildings.
12. I visually analyzed data relating the physical characteristics of the site and surrounding area.
13. Some of the relevant physical properties include the topography, access, vegetative cover, tree canopy, wetland location, neighborhood density, grain or patterns of development, road classification as well as distance to commercial centers, schools, and other public facilities.
14. I also reviewed the setback regulations, zoning, site development requirements and local laws pertinent to the project.
15. There is no question that there are numerous ways to design a Rabbinical College campus in a manner that is sensitive to a community of single family homes, especially on a site

such as the 100-acre parcel in the Village of Pomona bounded by US 202 and New York 306 (the “Property”).

16. On wooded sites with mature trees and a dense understory layer such as the subject Property, vegetation can help screen new buildings.
17. Furthermore, on sites with significant topography such as the Property, there are opportunities to build just over the top of hills within the forest on a small footprint to minimize the visual impact of the structures.
18. Buildings that occupy a smaller footprint of higher density are more ecologically responsible and can help to preserve more of the mature forest.
19. All of these simple architectural strategies would serve to minimize the visual impact of a new Educational Institution.
20. For example, Sea Ranch in northern California provides an archetypal example of this type of design. The project minimizes site disturbance by using materials, vegetation and topography to conceal buildings, as shown below in Figure 1.



Figure 1: Sea Ranch by Lawrence Halprin

21. In the Village of Pomona, use of materials that blend in color and character with the forest and campus buildings that are nestled into the topography and tree canopy would similarly help reduce visual impact of a campus.
22. Another method of making a campus blend with its context is to use structures similar to the surrounding neighborhood.
23. For example, the scale of campus buildings at Nyack College, approximately twelve miles from the subject Property, the residential district is very similar to the single family houses in the neighborhood, as shown below in Figure 2. Figure two includes images of three typical buildings on the Nyack College Campus. The smaller scale historic properties blend with neighboring houses. The larger scale Tudor is consistent with the architecture of other buildings in the town but more institutional in scale.

Figure 2: The Buildings on the campus of Nyack College, blending with the neighborhood.



Larger campus buildings and recreational facilities were located up the hill deeper into the heart of the campus, while smaller academic and residential buildings are consistent in scale with the neighborhood character as shown below on Nyack College's campus map Figure 3 and aerial image Figure 4.

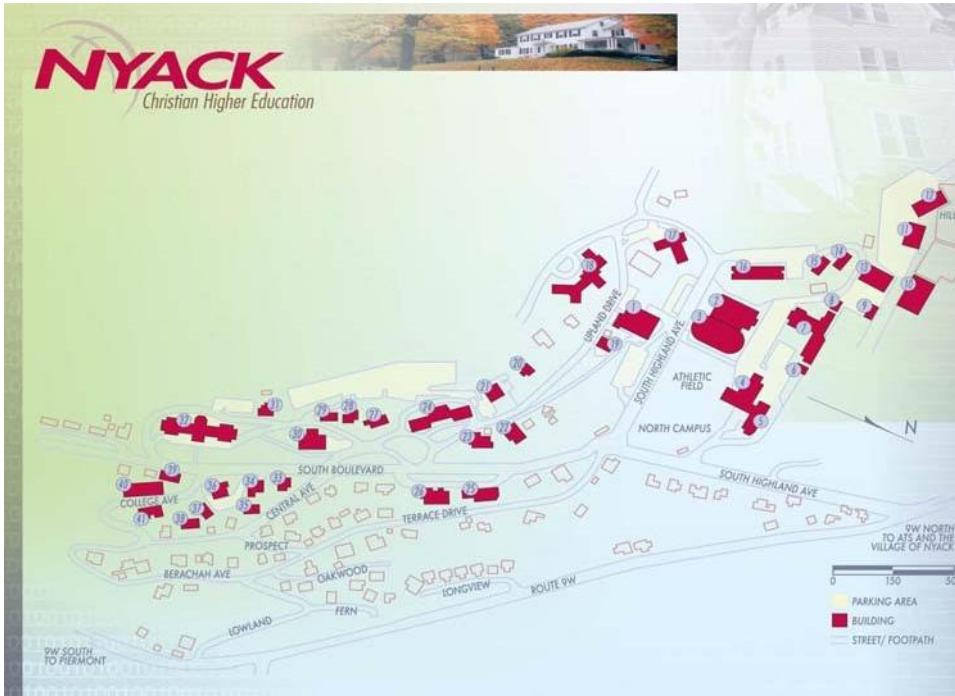
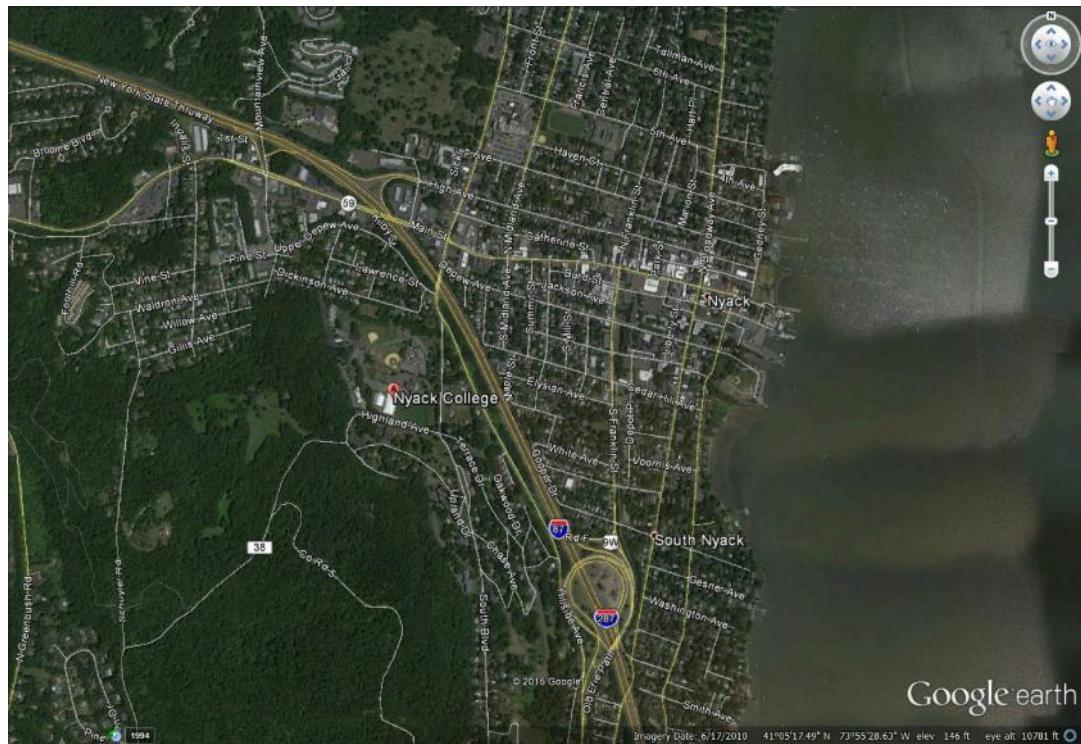


Figure 3: Nyack College campus map



24. The character of Pomona is not that of a traditionally “village.” In the United States the term “Village” is occasionally used as a term to help define an area with a particular set of rules similar to that of a city. The distinction does not characterize the form of the community but rather fees assessed and services provided by the local government. The term village in its traditional meaning refers to a small settlement pattern of dwellings fairly close together. Historically these communities often centered on a church or even a general store. The village was often defined informally by the distance people could easily walk. As communities grew, density would increase in these localized centers for convenience and security. Housing in Pomona is dispersed across the landscape. This pattern is not typical of a village landscape but rather a suburb.
25. Pomona is a typical suburban community. There are many single family houses with garages. Larger feeder roads service minor roads with individual drives as well as cul-de-sac developments. This pattern does not align with the walkability of typical village communities.
26. In the Village of Pomona, existing single family residential structures in the area are an eclectic mix of styles reflecting a suburban development pattern with limited aesthetic cohesion.
27. Houses in the Village tend to cluster off of black asphalt cul-de-sacs.

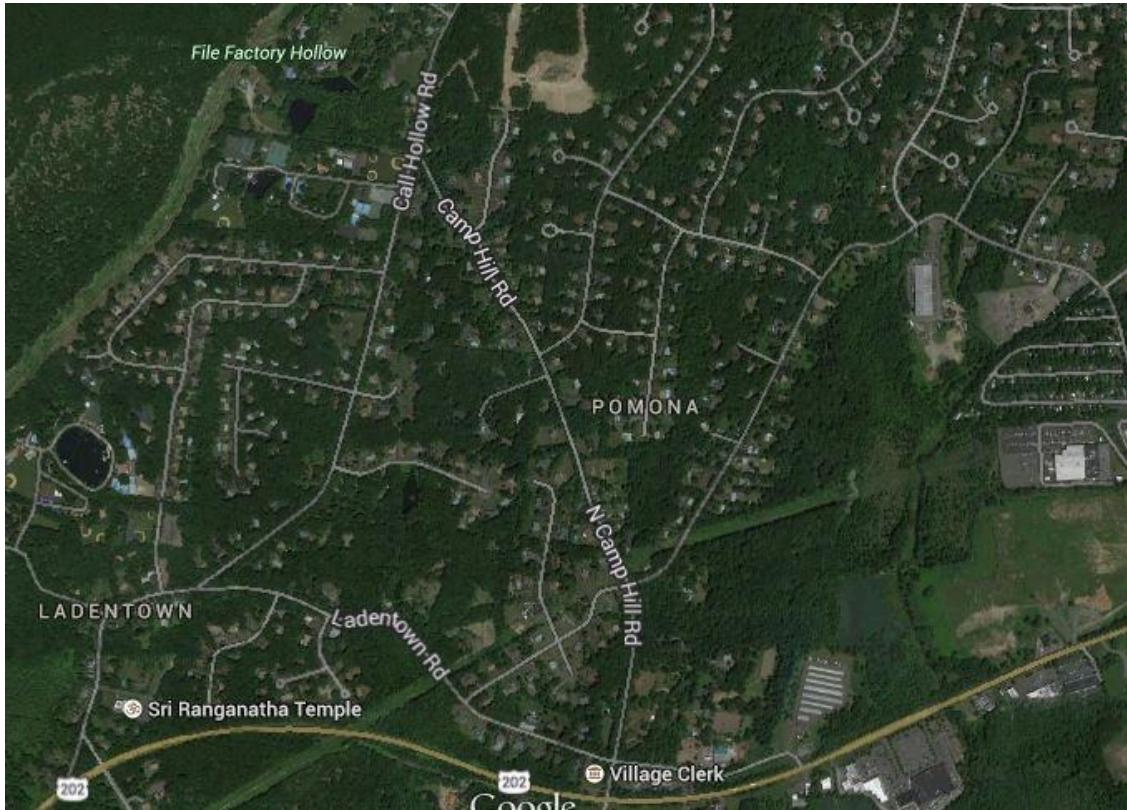


Figure 4: Village's cul-de-sac pattern. Google Earth

28. In Pomona, there are distinct clusters of single family houses dispersed from one another rather than in a more unified design. The boundary of the “Village,” shown below, does not appear to have anything to do with topography, natural resources or a cultural center.

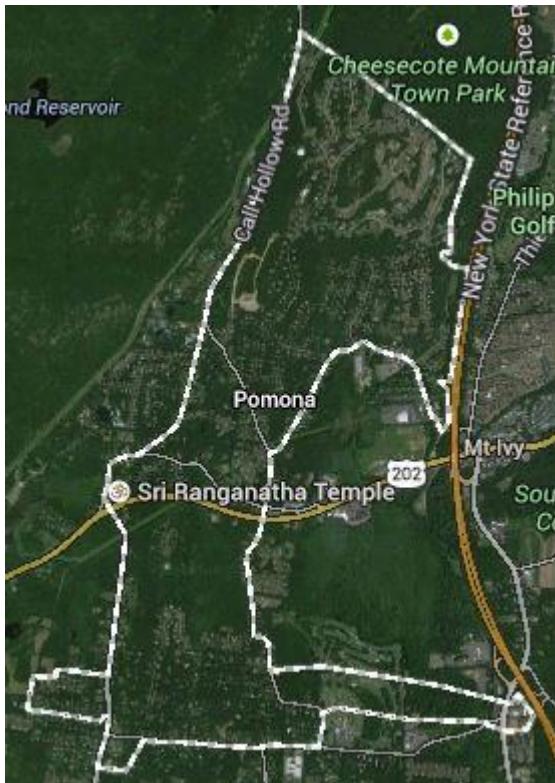


Figure 4: Village jurisdictional boundary Google earth

29. The current suburban pattern in the Village screens buildings from major roads but provides direct frontage for driveways off of collector roads that end in cul-de-sacs. This is a traditional suburban development pattern and has nothing to do formally with the term “Village”.
30. A Rabbinical College could be developed in keeping with Pomona’s community character by constructing buildings with broad lawns closer to collector street frontage (see below).

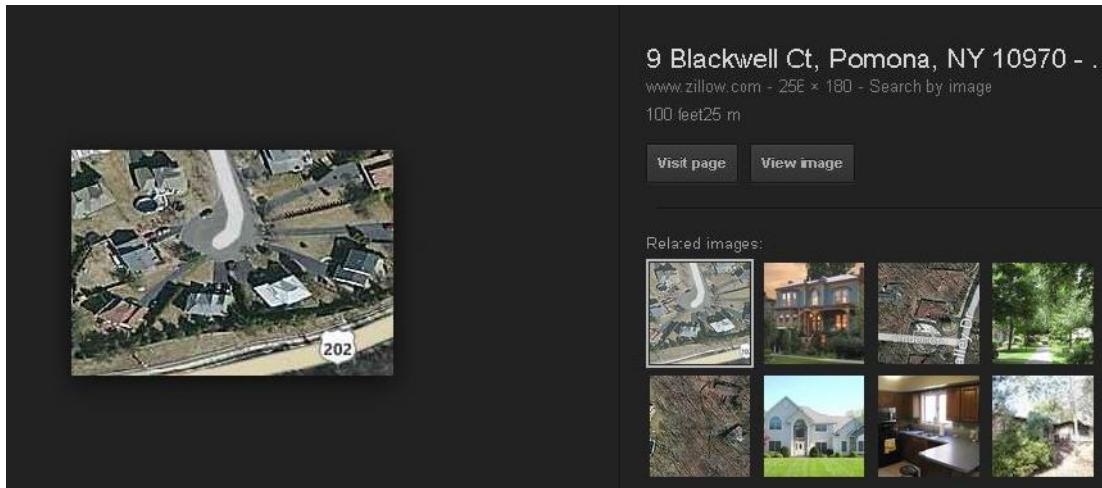


Figure 6: Pomona cul-de-sac neighborhood

31. The existing houses in the Village tend to have one to three stories with pitched roofs, sometimes with dormer windows. Houses are mostly painted in a variety of colors with brown and black asphalt-shingle roofs. Driveways in the area are black asphalt off of cul-de-sac feeder roads.
32. Cars are parked in adjacent asphalt paved driveways that in many cases occupied a large part of front yards.
33. As noted above, the Rabbinical College can blend its non-residential use into a predominantly residential community.
34. Although an Educational Institution campus would have more structures, if the scale and massing are similar, visible buildings will appear similar to other houses in the neighborhood.
35. With good design larger buildings can be hidden from view from the street. This can be accomplished architecturally by working with the roof slopes, materials, building massing and siting. Landscape strategies that use topography, plan massing, trees and careful access

and circulation design can also help minimize the appearance of a new campus on a site such as the Property.

36. In fact, it is a fairly simple design issue to introduce new dormitory and campus buildings into a community and retain the current community character.
37. As shown below, Fairfield University in Fairfield, Connecticut, with approximately 5,000 students, successfully blends residential scale buildings with the surrounding neighborhood. In Figure 8, the houses across the street from the building shown are also white clapboard of a similar scale. Figure 9 shows an aerial of the residences across the street.



Figure 8: Fairfield University buildings on the right

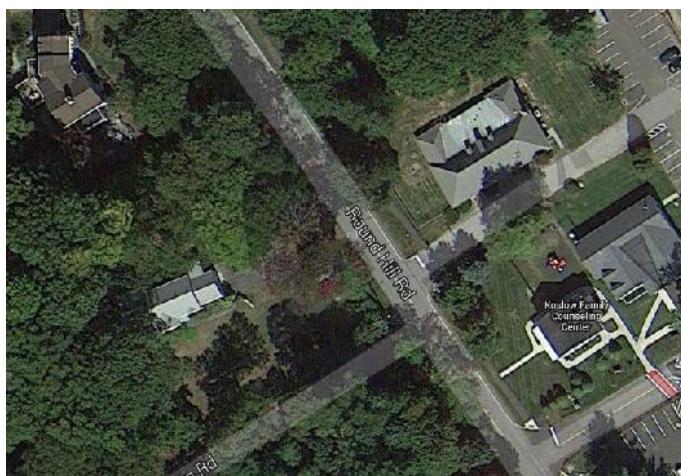


Figure 8: Fairfield University academic buildings right, private houses on the left side of Round Hill Road.

38. Furthermore, if the interest is to promote a more rural character, a college campus can actually create more of a rural feeling than the existing development patterns. At Middlebury College, with approximately 2,500 students, many of the buildings look like they are residential properties but are actually institutional structures. Discrete signage tells the use rather than the architecture.



Figure 9 - Middlebury College, Vermont

39. There is no question that a much smaller Educational Institution such as the Rabbinical College can help preserve the rural character because there will be fewer buildings than is allowable as a residential property, it will require fewer roads, and be set back from the roads to minimize visibility.
40. The accreditation status of an Educational Institution has no relation to community character from an architectural or aesthetic standpoint. Suggesting that such an institution must be accredited in order to protect the Village's character is simply irrational.
41. From an architectural perspective, inclusion of this "accreditation" language as a zoning requirement is irrelevant.

42. I have never encountered a situation, in over 25 years of professional practice, where accreditation was a factor in site planning or design of any school building.
43. In my experience programming and planning for public and private campuses that include Dartmouth College, University of Georgia, SUNY, Middlebury, the Berkshire School, Ethical Culture/Fieldston School, Drexel and University of Pennsylvania among others, accreditation was not part of town or city zoning.
44. In my experience, accreditation and architectural site planning are not related terms. As an architect I have worked for accredited and non-accredited programs. There is no architectural difference.
45. For example, as professor at Harvard, I saw first-hand that the Master in Landscape Architecture (“MLA”) II program which was not yet accredited, shared the same space and facilities as the accredited MLA I program.
46. Fundamentally, accreditation has very little relationship to physical form. If anything, an accredited institution might require more facilities rather than fewer. The idea that the rule is there to protect the rural character of the village of Pomona doesn’t make sense to me as an architect.
47. The Village’s requirement that an educational institution may have only one dormitory building does not reflect current thinking in residential life on college campuses across the country.
48. Many universities are creating varied types of housing to attract a more diverse student body that includes married students.
49. The restrictions on dormitory buildings in the Village’s zoning code limit them to an outdated model, and do not accommodate the needs of older students with children.

50. As recently as 60 years ago many dormitory buildings were equipped with sleeping quarters for servants who would take care of their charges.
51. At Wesleyan University, for example, many students choose to live in single family houses surrounding the academic core. The houses combined with suite-type dorm layouts, more standard dorms and high-rise higher density models make up the residential life experience of the campus. Collective space, dining facilities, and density of collective living vary.



Figure 11 Wesleyan- Undergraduate housing-orange, graduate housing-purple

52. The requirement of only one dormitory building is unreasonable for a zoning code provision as it relates to design guidelines rather than zoning. While zoning provisions focus more on land use types, FAR (floor area ratios), overall property use, setbacks, parking ratios and unit per acre density, they do not dictate the number of buildings of a particular program type. This type of regulation would more typically be seen in *Form-Based* design guidelines rather than a zoning text.
53. Putting all of the services of a school in one building is antithetical to the goal of maintaining a rural residential feeling in the area. The building would need to be large with

a substantial amount of space under one roof. It would be impossible for one building to reflect the residential character of the neighborhood.

54. Other provisions regulating dormitories in the Village, as adopted through Local Law 5 of 2004, are not justified by the Village's interest in maintaining the community or neighborhood character of the village of Pomona as a community of predominantly single family homes.
55. The statement that "dormitory rooms shall not contain separate cooking, dining or housekeeping facilities" would actually make the dormitory building(s) less similar to the residential properties in the neighborhood. Single family houses generally include separate cooking, dining and housekeeping facilities. To be similar to the existing neighborhood dormitory buildings should include these elements. The rule as it is written contradicts the intention of what it is trying to accomplish from an architectural perspective.
56. The statement that "not more than one communal dining room shall be provided in any building used for dormitory purposes" does not reflect current thinking in educational campus design.
57. Having choices of dining options and even facilities to prepare food independently is another common feature of current campus design. University of Alabama, Cornell, Mississippi State, Wesleyan, Georgia State, University of Central Oklahoma, and Bates among many others. Figure 12 shows a news item about new dorms with kitchens being built on the campus.

The screenshot shows the Harvard University Housing website. At the top, there is a navigation bar with links for "Our Properties", "Living in HUH", "Apply", "Faculty and Employee Real Estate Services", and "Other Housing and Resources". Below the navigation bar, a breadcrumb trail indicates the current page: "Home > Living in HUH > Why Choose Harvard Housing?". On the left, a sidebar titled "Reasons to Live With Us" lists "Graduate Commons", "Sustainability", and "Leasing & Property Management". Below this is a section titled "QUESTIONS?" with links for "Contact Us" and a phone number "(617) 496 7827". The main content area is titled "WHY CHOOSE HARVARD HOUSING?" and contains a list of reasons why students might choose Harvard housing, such as proximity to Cambridge, Allston, and Longwood Medical Area campuses, accessible transportation, included utilities, no security deposit, convenient rent payments, managed properties, non-smoking policies, high-speed Internet access, pet-friendly options, on-site play areas, laundry facilities, fitness rooms, sustainability programs, and LEED certification.

Campus Construction Update: June 2, 2014 | News | Bates College

www.bates.edu/news/.../campus-construction-update-june-2-2014/



Jun 2, 2014 ... half out of the traffic flow — like window seats in **dorm** corridors. ... as well as social spaces like living rooms, game rooms and **kitchens**.

Rooms for Improvement | Bates Magazine | Bates College

www.bates.edu/magazine/back-issues/y2005/.../quad-angles-2/



But where bedrooms in a typical **dorm** suite open onto the common room, the Bates ... A big lounge for all 150 residents will adjoin a **kitchen** for student use.

Figure 12. From Bates College web site. Description of new dorms with kitchens

58. At Harvard University, many residential life options are available to serve diverse student demographics. As shown from this page copied from the University web site a wide range of typologies and features are offered.

Figure 13: Harvard Real Estate Services web site

59. Decentralized dwelling and dining accentuates the connection of the campus to the surrounding community by simulating the scale and program of buildings in the neighborhood.
60. The idea that “single family, two family and/or multi-family dwelling units, other than as described above, shall not be considered dormitories or part of dormitories” again runs counter to the intention of maintaining the character of the Village of Pomona’s single family residential district.
61. Development of buildings that look and operate similar to single family houses would be an ideal way to minimize the appearance of difference between the new campus and the surrounding residential neighborhood.
62. The Village’s limitation that “a dormitory building shall not occupy more than twenty (20) percent of the total square footage of all buildings on the lot” enacted in Local Law No 1 in 2007 is not justified by any concern for “community character.”
63. Rather, the 20% limitation makes it impossible to develop any viable residential campus.
64. The academic buildings of a small school typically include libraries, study halls, chapels and classrooms and academic support structures. These programs would typically not cover more than 30,000 to 45,000 gross square feet and could be located in one structure to reduce site impact. Twenty percent of this space would be 6,000-9,000 square feet.
65. This amount of space would not accommodate the number of students necessary to justify the construction of the academic buildings.

66. Typically, the residential space on campuses is over 20%. At Middlebury College in Vermont, with 600 students per class, 38% of the campus buildings are for residential use. This number would be much higher if their extensive athletic and laboratory facilities were not included.

67. At Dartmouth, there are 1,200 students per class and the college is housing is 30% of built space. The map below shows the overall configuration and distribution of the housing across the rural New Hampshire campus. (Figure 14)

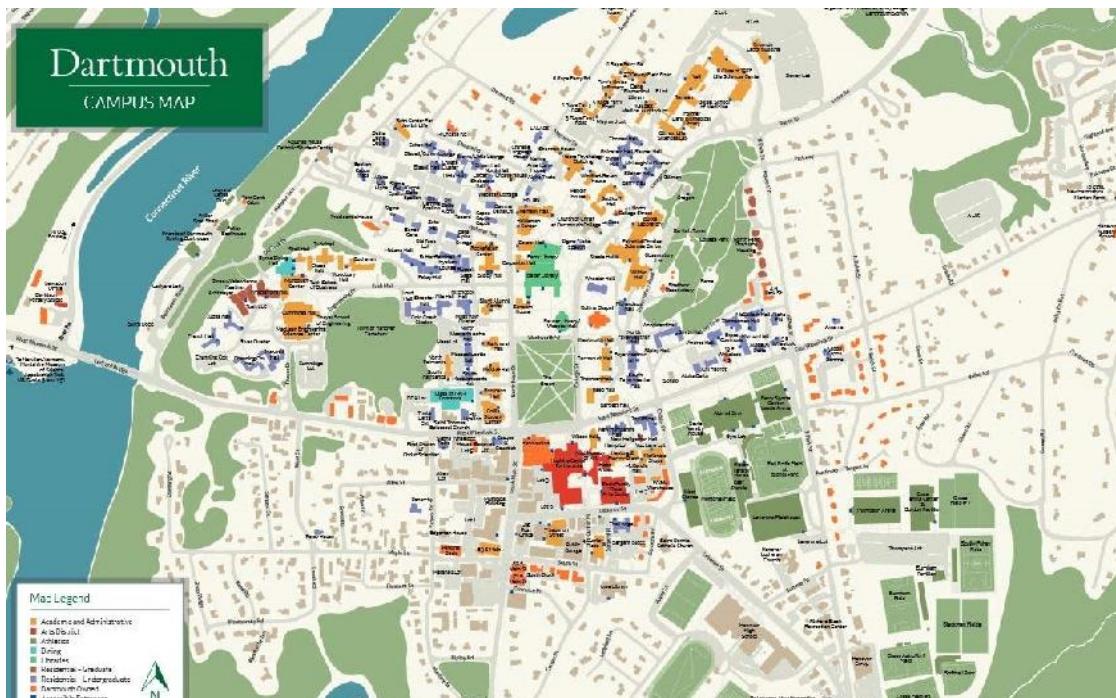


Figure 14 - Dartmouth College Plan 2014

As Dartmouth expands, the College has been sensitive to locate new residential buildings adjacent to the residential neighborhoods. Academic buildings on the campus are institutional in scale and character. The buildings tend to be masonry, while some of the newer residential buildings that form a transition to town properties are clad in wood. The

residential buildings in this transitional area have smaller massing even though they house a lot of people. Academic buildings in these locations would be out of place in the neighborhood.

68. The Village's Wetland Protection Law, enacted as Local Law 5 of 2007, does not protect the Village's community character.
69. First, exempting single family houses from rules suggests a disregard of the intent of State and Federal wetland regulations to protect watersheds. Bias toward the current single family development model ignores the important role of wetland regulations in protecting the environment. While not an ecologist, I am a Registered Landscape Architect and Fellow of the American Society of Landscape Architects with significant expertise in storm water management.
70. As a professional who specializes in green infrastructure, I am dedicated to preserving and protecting wetlands and healthy regional hydrologic systems. The law as written allows single family homes to build within the 100' designated buffer zones. Parking lots, driveways, and buildings prohibit recharge of water and can create more rapid runoff to the detriment of surrounding areas. Wetland rules should be universal to all properties in the Village. The exemption does not enable landscape architectural best practices.
71. In designing an educational institution campus, there are architectural methods to make the collection of buildings blend with an existing single family residential district.
72. For example, dividing singular program types such as dormitories, libraries and reading rooms, cafeterias into more hybrid units would help the campus blend.
73. Modeling new development after the existing scale and massing is another method for connecting campus and town.

74. At Princeton University, one of the oldest campuses in the United States, campus and residential buildings along Prospect Avenue are very similar in scale and form but constructed of varied materials. The view of Prospect Avenue below is at a blended threshold between college and town. The buildings on the left side of the photo are University-owned. The building on the right is a private home.



Figure 15 Princeton New Jersey

75. At Dartmouth College, housing on the perimeter of the campus blends in scale and character with the neighboring residential district of the town. In the case of Dartmouth, the town is a small rural village in New Hampshire. Figure 16 shows new graduate student housing on the left side of Route 120 and existing residential properties on the right side.



Figure 16 - Dartmouth College New Graduate Housing

76. At Dartmouth, this new graduate student housing includes apartments, many of which can accommodate family living. All of the dormitory buildings contain kitchens and dining rooms. They are multiple unit structures, but have distinct private entrances with porches that allow for community interaction for the neighborhood of houses. Children can run and play in the space between houses in a safe area that is away from the road.



Figure 17 - Dartmouth College, Hanover NH - New Graduate Housing

77. In another area of the Dartmouth campus, street trees and shrubs provide a buffer to the street, and materials of the neighborhood are matched. Here in Figure 18 white clapboard campus buildings on the left side of the photo match the material, color and massing of private buildings on the right side of the image.



Figure 18 – Dartmouth College, Hanover NH

78. Similarly, at Middlebury College in Vermont, residential housing units that have the amenities of single family houses serve married students, graduate students and

undergraduates who desire a less traditional model for their undergraduate campus experience.

79. At Wesleyan undergraduate students live in single family houses. Two examples are shown below.

WOOD FRAME HOUSES
OFFICE OF RESIDENTIAL LIFE

207 Pine Street



A 2-person unit, B 2-person unit

House furnishings:

- Common Area: couch, chair, end table and coffee table
- Kitchen: kitchen table, chairs, refrigerator, stove and oven
- Bathroom(s): Unit A - 1, Unit B - 1
- Bedrooms: desk, chair, dresser and bookcase

Bed type in each room is as follows:

Bedroom A1: full

Bedroom A2: twin

Bedroom B1: full

Bedroom B2: twin

146 High Street



A 2-person unit, B 4-person unit, C 2-person unit

House furnishings:

- Common Area: couch, chair, end table and coffee table
- Kitchen: kitchen table, chairs, refrigerator, stove and oven
- Bathroom(s): unit A - 1, unit B - 1, unit C -1
- Bedrooms: desk, chair, dresser and bookcase

Bed type in each room is as follows:

Figure 19 - Wesleyan University, undergraduate student housing in the neighborhood.

80. Fundamentally there are two strategies. The examples shown above suggest simulating the existing context in scale, massing and materials of existing architecture. The other method is to screen with planting and match the colors of the landscape. Figure 20 shows buildings integrated into the indigenous landscape.



Figure 20 - UC Santa Cruz

81. Locating buildings just over ridge lines and adjacent to clearings but backed by denser shrub massing or forest canopy can achieve a level of screening that minimizes the impact of any type of development, in a campus or single family housing units.
82. Furthermore, in site planning for large green-field sites with healthy forest canopy cover the most responsible way to build is to increase density and build on the smallest footprint.
83. Fewer trees would need to be removed, reducing the carbon footprint of the development and the preserved trees would reduce the visual impact of any new building on the existing single family community.
84. It is my opinion that the Rabbinical College can employ many of these methods to eliminate negative impact on community character in Pomona.
85. Dormitory buildings, as defined in the Village Code, can be designed with contextual materials. In other words the new design can use similar materials, shapes, roof lines and building volumes broken down to reduce the apparent size of the building.
86. Plant massing, and topography can mask the structure from the street to maintain existing village character.

87. I do not believe that a Rabbinical College with on-campus family housing would have a greater impact on the residential character of the Village of Pomona than other allowed uses as described below.
88. There is no architectural difference between a dormitory for an accredited school than a non-accredited institution.
89. Libraries on the site are permitted. Libraries require stack space and reading rooms and are generally among the larger institutional facilities in communities.
90. Public libraries are important civic structures that ideally have significant visitor traffic. They require parking for community events that is greater than their day-to-day needs. This parking impacts hydrology and heat island effects on the site. In contrast, educational campuses are generally pedestrian environments and thus their libraries have a lighter impact on sites.
91. Museums on the site are permitted. Again, museums are larger civic structures that ideally have significant visitor-ship.
92. Museums require parking for public events that is larger than their day-to-day needs. This parking impacts hydrology and heat island effects on the site. Museums with changing exhibits require truck access for loading and unloading of exhibits. This conflicts with the existing character of the rural residential village sensibility.
93. The average density of single family housing that is described in the Village Code promotes suburban sprawl rather than the development of a village.
94. Villages generally have greater density near a collective center and are characterized by single family houses accessed by individual driveways from main roads.

95. Pomona's current cul-de-sac model, on the other hand, does not follow a traditional village development pattern.
96. A Rabbinical College with on campus housing could be designed to integrate with the existing neighborhood and would not have a greater impact than other institutional and residential uses such as museums, libraries, dormitory buildings for accredited schools, or single family housing based on existing average density requirements.
97. The Village's limitation that "a dormitory building shall not occupy more than twenty (20) percent of the total square footage of all buildings on the lot" enacted in Local Law No 1 in 2007 would render construction of a Rabbinical College with on-campus family housing impracticable.
98. Residential colleges, universities and boarding schools that I researched have much higher percentages of square footage devoted to housing. I cannot find any examples of residential campuses that fulfill this requirement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: January 21, 2015

at ____ 3:49 _____



SUSANNAH C. DRAKE